

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of

Application by)	
SBC Communications Inc.,)	
Michigan Bell Telephone Company, and)	
Southwestern Bell Communications)	WC Docket No. 03-138
Services, Inc. for Provision of)	
In-Region, InterLATA Services)	
in Michigan)	

COMMENTS OF MCI

Marc A. Goldman
JENNER & BLOCK, LLC
601 Thirteenth Street, N.W.
Washington, D.C. 20005

(202) 639-6087

Keith L. Seat
MCI
1133 Nineteenth Street, N.W.
Washington, D.C. 20036

(202) 887-2993

July 2, 2003

INTRODUCTION AND EXECUTIVE SUMMARY

SBC reapplies for section 271 authority in Michigan only two months after withdrawing its prior application, without having fixed the significant problems that led to its withdrawal. SBC continues to bill WorldCom, Inc. (d/b/a MCI) for lines that are not MCI's according to line loss reports that SBC has sent to MCI. SBC's bills also remain inaccurate in a number of other ways, and SBC continues to make it very difficult and time consuming to resolve billing disputes.

At least as important, SBC's line-splitting process is significantly impeding MCI's ability to compete effectively for DSL customers. MCI has now launched line-splitting service nationwide, including in Michigan, and the problems that MCI anticipated as a result of SBC's process have in fact arisen. That process is causing loss of dial tone for MCI customers and is significantly increasing MCI's costs.

SBC also has not resolved its data integrity issues. It still has not satisfied more than half the test points in the BearingPoint test. This raises significant questions about the value of SBC's performance reporting.

SBC's change management performance continues to be severely deficient as well. Each new EDI release is beset with defects and documentation errors that harm CLEC customers and force CLECs to make costly changes after implementing a release. SBC also is not working with CLECs to implement change requests that are important to them.

SBC must resolve these key issues prior to receiving section 271 authority.

TABLE OF CONTENTS

INTRODUCTION AND EXECUTIVE SUMMARY	i
TABLE OF DECLARANTS	iii
TABLE OF CITATIONS	iii
I. BILLING/LINE LOSS	1
II. LINE-SPLITTING	9
III. PERFORMANCE METRICS.....	15
IV. CHANGE MANAGEMENT.....	16
CONCLUSION	18

TABLE OF DECLARANTS

Tab	Declarant	Subject
1	Sherry Lichtenberg	OSS

TABLE OF CITATIONS

FCC Order	
<i>BellSouth Five State Order</i>	<i>In re Joint Application by BellSouth Corp. et al. for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina, WC Docket No. 02-150, Memorandum Opinion and Order, 17 F.C.C.R. 17595, FCC 02-260 (2002)</i>
<i>Kansas/Oklahoma Order</i>	<i>In re Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, Memorandum Opinion and Order, 16 F.C.C.R. 6237, FCC 01-29 (2001), aff'd in part, remanded by, Sprint Communications Co. v. FCC, 274 F.3d 549 (D.C. Cir. 2001).</i>
Other Materials	
SBC Report of Management	SBC Report of Management on UNE and UNE-P Billing Accuracy (June 17, 2003) (Joint Affidavit of Daniel Dolan and Brian Horst at Ameritech Appl. App. A, Tab 7, att. B)

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of

Application by)	
SBC Communications Inc.,)	
Michigan Bell Telephone Company, and)	
Southwestern Bell Communications)	WC Docket No. 03-138
Services, Inc. for Provision of)	
In-Region, InterLATA Services)	
in Michigan)	

COMMENTS OF MCI

I. BILLING/LINE LOSS

SBC continues to charge CLECs for lines that are not theirs, or at least for lines that SBC has told CLECs are not theirs, the very problem that led to SBC's payment of millions of dollars to CLECs during the so-called "reconciliation." As this Commission is well aware, after filing its prior section 271 application in Michigan, SBC announced that it owed millions of dollars to CLECs as a result of overbilling ostensibly caused by problems with its migration to CABS. The overbilling primarily related to lines for which SBC charged CLECs that did not actually belong to them. As WorldCom, Inc. (d/b/a MCI) explained at the time, however, the credits that SBC provided to MCI on their face suggested that SBC had not credited CLECs for all past problems and had not fixed the problems on an ongoing basis. WorldCom Supplemental Comments, April 9, 2003. Moreover, SBC did not provide sufficient explanations and evidence that the problems were fixed.

It is now clear that MCI was correct. SBC itself has recently transmitted several accessible letters acknowledging significant billing mistakes, some of which pertained to the

reconciliation, despite its claims during the last application process that all significant billing issues had been resolved. Lichtenberg Decl. ¶¶ 12-13, 34-35. And SBC still has not shown that its billing processes are now working effectively.

Since SBC withdrew its prior section 271 application, MCI has taken three steps to determine the significance of ongoing billing problems. Each has demonstrated that such problems continue to exist. **First**, MCI has begun developing the complex auditing capability needed to compare the data received on SBC's bills with the underlying data in MCI's databases to determine whether SBC continues to bill MCI for lines that are not MCI's lines. Although MCI has not finished this development, early test runs in Michigan, which were necessarily incomplete because the software development was not yet finished, showed that it is being billed for 487 lines that do not appear to be MCI's lines. Lichtenberg Decl. ¶¶ 18-19.

When SBC finally responded with research on these lines, it explained that 39 lines were not MCI lines and that SBC was billing MCI in error. On 84 lines, SBC said that it was still researching the cause of the problem and indicated that some may be lines that MCI mistakenly removed from its billing systems. And on the remaining 364 lines, SBC said that it had erroneously sent MCI line losses on the lines. *Id.* ¶ 21. The impact of erroneous line losses is significant. When MCI receives line losses, it removes the lines from its billing systems and stops billing the customers. It also stops responding to maintenance and repair requests on the lines. Thus, if the line losses are erroneous, MCI receives bills from SBC for the lines but does not bill its customers for the lines and does not know it is responsible for providing maintenance and repair support to those customers. *Id.*

Second, MCI compared the data in MCI's databases with data from SBC's "lines in service report," which, as the name suggests, lists all the lines that SBC believes to be in service

with MCI. MCI is in the process of completing the extensive manual work needed to perform this comparison and will soon send the results to SBC. But the preliminary results reveal *thousands* of lines that SBC reports as MCI lines that are not MCI's lines according to MCI's data. MCI's data show that it received line losses on these lines, or that MCI sent disconnects on these lines, or that for a variety of other reasons, it appears clear that the lines do not belong to MCI. Once again, therefore, it appears that MCI is being billed for thousands of lines for which it should not be billed. *Id.* ¶ 24.

SBC may respond that Ernst & Young's ("E&Y") analysis shows that SBC's reconciliation resolved the problem of billing CLECs for lines that were not theirs. But all that E&Y did was to compare SBC's ACIS database with the CABS database to ensure that SBC was not billing CLECs for lines that were not in ACIS. E&Y did not evaluate whether the ACIS database itself is accurate. Nor did E&Y evaluate whether ACIS is consistent with other SBC information, such as the line loss records SBC has provided or the toll file guide that sends daily usage information to CLECs. If SBC has sent inaccurate line loss information to CLECs, the impact on CLECs will be severe even if the information in ACIS is correct. Moreover, it may be that E&Y is simply wrong. While MCI does not know the reason SBC's lines in service report contains thousands of lines that are not in MCI's databases, it is possible that the discrepancies result from the CABS conversion. If so, this would mean that SBC still has not eliminated the problems caused by that conversion.

Regardless, the existence of continued billing on lines that are not MCI's or on which SBC has transmitted line losses is a serious problem. It is particularly alarming because in November 2002, MCI and SBC conducted a thorough reconciliation of their databases that was intended to address any differences in those databases caused by SBC's prior line loss issues. At

that time, MCI and SBC found their databases differed by many thousands of lines, largely as a result of SBC's line loss problems. Lichtenberg Decl. ¶ 23. MCI believed, however, that after that reconciliation, SBC had cleaned up its databases and on a going-forward basis, SBC and MCI would both understand which customers belonged to them (at least in the absence of additional line loss problems). Unfortunately, however, the newest data shows that this is not the case. SBC continues to bill MCI for thousands of lines that it has led MCI to believe are not MCI's. SBC must fix this problem before it is granted section 271 authority.

Third, MCI also addressed the information on the reconciliation and other billing issues by attempting to ask questions directly of SBC. It took until June 24, however, before SBC provided anyone with expertise on the reconciliation. And even today, many key questions remain unanswered.

SBC provided far more information on the reconciliation in its FCC filing here on June 19, including the report from E&Y, than it provided directly to MCI. Unfortunately, however, SBC did not invite CLECs to work with E&Y to determine the accuracy of the reconciliation. Nor did SBC make E&Y available to answer CLEC questions, as would have happened with an ordinary third party test before a state commission. Lichtenberg Decl. ¶ 15. And in its report here, E&Y itself does not fully address many of MCI's key questions. Thus, the E&Y report must be looked at with a significant degree of skepticism.

As MCI explained in April 9 Supplemental Comments, the credits that SBC provided MCI on its February bill did not diminish over the course of 2002. The credits were just as significant for billing errors that began in December 2002 as in January 2002. If SBC's billing processes improved during 2002, it is unclear why this would be so. And SBC has never explained why this would be so. In addition, all of the credits SBC provided had an end date of

February 15. This suggests that SBC failed to credit MCI for lines that were incorrectly billed for a period of time but for which the incorrect billing ended prior to February.¹ Indeed, SBC in its application here says that “[I]n order to be subject to the Reconciliation process and receive a billing adjustment, the UNE-P circuit information had to exist in either ACIS or CABS as of January 17, 2003.” SBC Report of Management at 4 n. 5. This suggests that errors made on circuits that were no longer in the billing databases as of January 17 were not corrected.

In its many meetings with MCI, SBC also failed adequately to address MCI’s questions regarding non-recurring charges and usage. Because the CABS conversion caused SBC to bill CLECs recurring charges for lines that were not theirs, it seemed likely to MCI that SBC also billed CLECs for non-recurring charges (“NRCs”) and usage associated with those lines. Yet the reconciliation provided no credits for such charges. During meetings with MCI, SBC provided essentially no answer to MCI’s questions regarding NRCs and only a very limited explanation regarding usage. Lichtenberg Decl. ¶¶ 25-27. SBC provides a somewhat more detailed answer in its filing here, explaining that the problems with the CABS conversion did not affect NRCs or usage and that E&Y verified that this is so. But contrary to SBC’s claim, E&Y did not verify this. It did not actually look at usage records or NRCs for lines the reconciliation revealed were not CLEC lines. *Id.* Moreover, MCI has presented data to SBC on a monthly basis since last November showing that it *is* receiving usage data for hundreds of lines that are not MCI lines. SBC has acknowledged this to be so and attributed the problem to manual errors. *Id.* ¶¶ 28-29.

¹ In meetings, SBC suggested something different. It indicated that for lines which it was erroneously billing MCI but which were not in MCI’s database in January 2003, SBC credited MCI through February 15 but also debited it, so that the net credit was for the correct time period. MCI has no reason to believe this is so, however. Lichtenberg Decl. ¶ 11. And as far as MCI understands, E&Y did not evaluate whether CLECs were correctly credited for circuits that were not being billed as of the time of the reconciliation. Moreover, it is extremely difficult to tell if the credits are accurate if this is the process SBC employed.

In meetings with MCI, SBC attributed a number of other repeated problems on bills to manual errors as well. On some UNE-P migration orders, SBC has been charging MCI for Universal Service Order Codes (“USOCs”) that do not apply to migration orders. It has been charging MCI truck roll charges that do not apply to UNE-P. And it has been charging MCI disconnect charge for loops, as well as ports, when only the port charge is supposed to be applicable. SBC has admitted to nearly \$1 million in errors for such overcharges of MCI alone, and it has attributed most of the problem to manual errors. Lichtenberg Decl. ¶¶ 38-44. Such manual errors should not occur on basic UNE-P orders, which should not require manual processing before posting to the billing systems. But SBC has not agreed to take any steps to reduce manual processing. Nor has it agreed to put in place further checks to ensure bills are accurate before they go out the door. *Id.* As a result, it is likely that significant billing problems will continue.

SBC’s answers to MCI in meetings also raised additional problems regarding the reconciliation. SBC explained to MCI that when it credited MCI for lines for which MCI was being billed erroneously, it sometimes did not know the “From” date – the date the customer left MCI and thus the date on which billing should have ceased. *Id.* ¶ 16. SBC used a surrogate date in such instances. When MCI asked SBC for a list of lines on which SBC had used surrogate dates, however, it was unable to provide this list, making it very difficult for MCI to determine whether SBC employed the process it claims and making it unclear how E&Y verified the process. If SBC performed a careful reconciliation that E&Y was able to verify, SBC would have been able to provide such records. *Id.*

Moreover, the fact that for many customers SBC apparently did not have any record of the dates the customers left MCI shows a more fundamental problem with SBC’s recordkeeping.

Without information such as this, it will be much more difficult to resolve billing claims for past disputes. Even if SBC agrees a particular charge is incorrect, it will not be able to accurately determine how much MCI is owed. *Id.* ¶ 17.

SBC's meetings with MCI also confirmed the existence of an even more fundamental problem with SBC's billing processes – the difficulties of resolving billing questions with SBC. Even after SBC withdrew its section 271 application, in part because of billing issues, SBC initially refused to answer questions regarding the reconciliation and then failed to provide anyone with expertise on the reconciliation until June 24. Lichtenberg Decl. ¶¶ 5-7. This was so despite numerous requests from MCI and numerous meetings between the parties. SBC also frequently came to meetings unprepared to answer other basic questions as well. For example, as noted above, in April, MCI provided SBC the list of 487 lines for which it was being billed even though MCI's records showed they were not MCI's lines. SBC repeatedly brought to meetings individuals without sufficient expertise to answer questions on these lines. It took SBC until June 19 to provide anyone who even understood MCI's questions and who was able to provide real data on these lines. *Id.* ¶¶ 20-21. MCI, on the other hand, repeatedly brought to meetings its key subject matter experts who were forced to waste significant time obtaining non-responses from SBC.

Although SBC eventually provided answers to most of MCI's questions – largely on the eve of this new section 271 application – the continued delays fit a longstanding pattern. MCI has, for example, been attempting since last September to negotiate SBC payment of the multi-million dollars it owes MCI as a result of continued overcharges for every loop, and for the losses caused by SBC's past line loss problems. Although it constantly appeared that a settlement was imminent, SBC would insist on more meetings or slight changes until very

recently when SBC pulled away from a settlement altogether. SBC is now forcing MCI to file a complaint to collect money it is clearly owed. Similarly, with respect to all of MCI's billing disputes, SBC refused until just days ago to pay MCI the 18% interest called for by the interconnection agreements and relevant tariffs even though there can be no dispute that this is what is required. Lichtenberg Decl. ¶¶ 36-37. Again, SBC's tactic appears to be to force MCI to fight for every dollar. And while SBC tries to dismiss such claims as interconnection disputes that are irrelevant to section 271 authority, such disputes raise MCI's costs and prevent it from obtaining the nondiscriminatory access to network elements at TELRIC rates to which it is entitled.

SBC nonetheless claims its application should be approved on the basis that the outstanding billing disputes in Michigan are similar to those in other SBC states that have received section 271 authority, and on the basis that E&Y has now verified the accuracy of the reconciliation. But unlike in other states, it is undisputed that there have been substantial billing problems in the SBC-Ameritech region, including those found in the reconciliation, not just open billing disputes the legitimacy of which is unclear. As explained above, significant questions remain about the reconciliation itself. And unlike in other states, there is evidence of significant billing problems caused by manual processing, which could easily be fixed through automation or additional auditing processes. Moreover, because SBC does not deal effectively with CLECs, it cannot be presumed that ongoing billing disputes will be effectively resolved. In any event, SBC's attempts at quantification are flawed. It is unclear whether SBC has taken into account the millions of dollars of overcharges for loops, for example.

Most important, SBC's calculation of billing disputes, as well as its reliance on E&Y, do not take into account errors in ACIS or errors based on erroneous line loss reports. CLECs

cannot be expected routinely to raise such issues on an ongoing basis, because the audits to find these errors are very time consuming. Yet it is now clear that significant errors exist. As a result of SBC errors, SBC has different information on which customers belong to MCI than MCI has. Until this problem is fixed, SBC's section 271 application must be denied.

II. LINE-SPLITTING

Since SBC withdrew its prior section 271 application, MCI has launched DSL service via line-splitting in Michigan, as well as nationwide. MCI now understands firsthand the fundamental flaws in SBC's line-splitting process, which were only hypothetical during the course of SBC's prior application. Indeed, SBC's process is far and away the worst in the country. It often leads to extended outages when customers move to line-splitting. Even worse, it often requires a line-splitting customer to move to a new loop when the customer drops DSL service. The process also imposes significant, unnecessary costs on CLECs.

SBC criticizes CLECs for refusing to work with it on details of the line-splitting process, SBC Br. at 29, but MCI has been working with SBC for many months to understand those details and to discuss problems with the process. In those meetings, and in Change Management and the CLEC User's Forum, SBC has been completely unwilling to agree to any changes to address the basic flaws in its process. Lichtenberg Decl. ¶¶ 85-86. Moreover, these flaws should not exist in the first place. Other ILECs have not adopted processes with such severe anti-competitive and discriminatory effects (although their processes are hardly perfect). SBC should not be permitted section 271 authorization based on the excuse that further discussion is needed and that perhaps someday it will adopt a workable process. Line-splitting is essential to present and future competition as it is the only way that CLECs can offer the bundled DSL service that

many customers want. SBC must meet the requirements of the checklist today, and its current line-splitting process does not.

Perhaps the most significant of all of the flaws in SBC's process is SBC's obstinate refusal to routinely reuse the customer's existing loop when a line-splitting customer decides to drop DSL. When a customer drops DSL, SBC should simply remove the cross connect from the customer's existing loop to the CLEC's collocation cage and reconnect the loop to the port. This is the process used by all other ILECs. Instead, however, SBC has said that it often will replace the customer's existing loop with an entirely new loop. Lichtenberg Decl. ¶ 63. That is unacceptable.

Replacement of the existing loop may require the customer to wait at home for a technician to connect the new loop to the customer's inside wiring. It may lead to a much more significant period without service than would exist with simple rewiring at the central office, and it exposes the customer to the risk of human error in connection of the new loop. *Id.* ¶ 64. Moreover, if SBC's loop plant has been exhausted in the customer's area, as occurs in a small but not insignificant percentage of cases, the customer may be without dial tone for several weeks. *Id.* ¶ 65. Finally, this process ratchets up CLECs' costs by forcing them to pay for installation of a new loop and, in some instances, by forcing them (or their customers) to absorb the cost of dispatching a technician to connect the customer's inside wire to the new loop. *Id.* ¶ 66.

SBC's justification for installing new loops is simply silly. SBC claims that use of a new loop is necessary to ensure voice quality. But in a line-splitting arrangement for an MCI customer, the loop is already being used to provide voice service. Moreover, the loop is the *same* loop that MCI was using to provide voice service to the customer before the customer

ordered DSL, and no changes have been made to the loop.² MCI does not order conditioning of any loops when it orders line-splitting, and SBC is fully aware of this fact since it has not processed any orders for loop conditioning.³ Just as the loop was used to provide voice service before the customer had DSL, and while the customer had DSL, it can be used to provide voice service after DSL. Indeed, SBC itself has suggested to MCI a work-around solution that would enable MCI to continue using the existing loop, making clear that SBC fully understands that the loop is capable of being used for voice service. Lichtenberg Decl. ¶¶ 69-70.

MCI has adopted this work-around, but the work-around has its own set of significant problems. SBC suggested that rather than placing an order with SBC to disconnect line-splitting, MCI could simply disconnect the customer from the DSLAM in MCI's collocation cage, thus removing the customer's access to DSL. This would leave the customer with voice service on the existing loop, which would remain cross connected to the splitter in MCI's collocation cage (or that of the data CLEC with whom MCI was partnering). The work-around causes a number of problems, however. Because MCI removes the customer's connection to the DSLAM without placing a disconnect order with SBC, SBC continues to charge MCI almost \$2 more per month for an "xDSL capable" loop, rather than an ordinary loop. That is a substantial difference in price. Moreover, because the loop is still connected to MCI's splitter (or that of the data CLEC),

² At least MCI hopes that this is so. Given SBC's ordering process, which is discussed below, there is some chance that SBC changes the loop when the customer moves to line splitting, as well as when the line splitting arrangement is terminated. If SBC does this, its process is even worse than MCI presently believes.

³ If SBC were truly concerned about voice quality on conditioned loops, it could check before processing an order to remove line splitting whether the loop had been conditioned. Presumably, however, if voice quality had deteriorated on the loop, the customer would have complained to the CLEC while the customer had line splitting. Voice quality on the loop would not get worse once line splitting was removed. In any event, it is should not be SBC's choice to impose on the CLEC and its customer the costs associated with use of a new loop based on some paternalistic concern for voice quality on the existing loop of the CLEC customer.

MCI is wasting valuable capacity on the splitter. As DSL order volumes increase and as more customers also decide to drop DSL, the capacity on MCI's splitters will increasingly come to be used by customers who are not receiving DSL. Finally, the fact that the loop remains connected to the splitter complicates the process to place supplemental orders for the customer, such as orders to change features, and also complicates the process for maintenance and repair.

Lichtenberg Decl. ¶¶ 67-68.

SBC's process is therefore purely anti-competitive. It forces CLECs and their customers to absorb costs and face problems that are entirely unnecessary and that are not faced by SBC's retail customers.⁴ Retail customers can drop DSL on their lines with no need for a new loop. In other ILEC regions, CLEC customers can do so as well. But in the SBC region, CLEC customers can only retain their existing loop if the CLEC adopts a work-around process with substantial attendant costs. Yet despite the obvious anti-competitive nature of its current process, SBC has not agreed to a new process.

SBC's line-splitting process is also flawed at the ordering stage. SBC's versioning process requires CLECs to be on the exact same version of EDI as their DLEC partner, down to the dot release, before the DLEC can submit line splitting orders on behalf of the CLEC. This makes it more difficult for the CLEC to find DLECs with whom to partner. Lichtenberg Decl. ¶ 51.

⁴ SBC's claim that there is no discrimination because it uses a new loop when it wins back a line-splitting customer from a CLEC is comparing apples to oranges. From the customer's standpoint, and that of the CLEC, the proper comparison to a CLEC customer who drops DSL is an SBC retail customer who drops DSL, not a win-back situation. Moreover, while in a win-back situation, SBC may claim it voluntarily wants to install a new loop to ensure the loop "meets SBC's quality standards for a voice-grade loop," SBC Br. at 31, in a line-splitting situation the CLEC should not be prevented by SBC from deciding that the existing loop will meet its quality standards after DSL is removed. This is especially so because, as MCI has explained, there is not in fact any risk to voice quality on the line.

SBC's process almost inevitably leads to extended loss of dial tone for some CLEC customers. It has already led to extended loss of dial tone for eight of the 212 MCI line-splitting customers whose orders have completed to date in the SBC-Ameritech region. (Four more customers lost dial tone as a result of MCI issues.) In contrast, in other ILEC regions, almost no MCI customers have lost dial tone. Lichtenberg Decl. ¶¶ 52, 57.

The reason the customers have lost dial tone in SBC's region is SBC's use of a four service order process. Once SBC receives a Local Service Request ("LSR") for line-splitting for a UNE-P customer, SBC treats the request as if it is one to disconnect the existing loop and port and connect a new loop and port. SBC creates four separate service orders in its back end to reflect these four activities. Although SBC may not actually replace the existing loop and port with a new loop and port, the four service order process creates unnecessary risks. If the disconnect orders are processed before the re-connect orders, the customer will lose dial tone for an extended period of time, as has happened on some MCI orders. In addition, the order to disconnect the port wipes out existing switch translations. As a result, if the order to connect the port does not reinstall these same translations, the customer can lose dial tone or can lose the existing features on the line. Some MCI customers have lost dial tone as a result of such translation problems. Lichtenberg Decl. ¶¶ 53-56.

Moreover, because SBC treats the order for line-splitting as orders for separate unbundled elements – a loop and a port – rather than as a change to a UNE-P arrangement, CLECs must follow a more complex process to submit troubles. They must, for example, isolate the trouble to either the loop or the port before submitting the trouble. And they must include additional information on the trouble ticket. Lichtenberg Decl. ¶ 58.

SBC also appears to charge CLECs more because it treats the line splitting order as an order to disconnect the existing loop and port and install a new loop and port. The non-recurring charges for line splitting, for example, include the \$17.82 connection charge associated with installation of an entirely new loop. Lichtenberg Decl. ¶ 59.

SBC uses its multiple service order process at the disconnect stage as well as at the ordering stage. When a CLEC wants to place an order to disconnect line-splitting and keep the customer as a UNE-P voice customer, it must actually place two separate orders. It must *fax* an order to remove DSL on the customer's line and must place a separate order to remove the existing xDSL-capable loop. The requirement to submit multiple orders and fax one of these orders significantly complicates the ordering process for CLECs. This Commission has long recognized the problem of requiring faxed orders, and this problem is even worse when the CLEC must submit two separate orders. Lichtenberg Decl. ¶ 60.

Once SBC receives these two orders, SBC then creates three service orders in its back end: an order to disconnect the loop, an order to disconnect the port, and an order to install a new UNE-P customer. As with the initial installation process, if SBC fails to coordinate these orders properly, the customer will lose dial tone. And the process of ensuring these orders are coordinated is a manual one that may even require coordination among different groups at SBC. Lichtenberg Decl. ¶ 61.

SBC again appears to charge CLECs more because it treats the disconnect order as including installation of a new loop. The extra charges appear to include a \$17.82 charge to

connect the new loop, which would seem to be an unnecessary result of SBC's overly complex process. Lichtenberg Decl. ¶ 66.⁵

SBC's line-splitting processes are severe impediments to expansion of MCI's DSL offering and thus of its ability to persuade customers who want DSL to come to MCI. While MCI launched line-splitting nationwide in May, the SBC region is the only one in which the problems are so severe. These issues must be resolved before SBC obtains section 271 authority to enable competition to flourish.⁶

III. PERFORMANCE METRICS

SBC has yet to satisfy even half of the test points in the BearingPoint test. Indeed, BearingPoint continues to find SBC's performance unsatisfactory with respect to nearly 30% of the test points (and indeterminate with respect to 25%). Ehr/Fioretti Decl. ¶ 59. SBC attempts to minimize these results by arguing that Not Satisfied findings may change in the future. But the fact that after years of testing, BearingPoint remains unsatisfied shows that SBC's metrics reporting is not yet at an acceptable level. The E&Y review does not change this conclusion, both because it was less comprehensive in scope than the BearingPoint test and because it was less thorough with respect to the testing that was performed. SBC should work quickly with

⁵ One other potential problem with line splitting concerns E911 records. MCI is not yet sure of the extent of the problem, but SBC recently announced that CLECs are responsible for E911 records once a line splitting arrangement exists. It is not clear what exactly SBC expects CLECs to do to maintain the E911 records. Nothing in the CLEC's collocation cage should affect the records.

⁶ These issues are not "new and unresolved interpretive" disputes of the sort the Commission cannot resolve in a section 271 proceeding. *Kansas/Oklahoma Order* ¶ 19. They involve fundamental anti-competitive conduct concerning an order type key to current and future competition. If such disputes could not be resolved in a section 271 proceeding, many important operational issues that have been resolved through the section 271 process would continue to plague competition, since all disputes are "new" in some sense the first time they are decided.

BearingPoint to resolve remaining issues rather than attempting to invent new ways to argue that these issues are insignificant. Lichtenberg Decl. ¶¶ 72-73.

The Commission has never accepted a section 271 application with such a high percentage of failures in a metrics test. It should not do so now.

IV. CHANGE MANAGEMENT

SBC's change management performance has worsened over time to the point where that performance is now severely deficient.⁷ Although SBC boasts of its performance with its latest EDI release, version 6.0, early evidence from that release shows the same problems as have beset prior releases. SBC has already had to send out a set of documentation revisions for that release, and also has already announced 53 defects for that release. Lichtenberg Decl. ¶¶ 75-76.

The sheer volume of documentation changes and defects in recent releases has driven MCI (and many other CLECs) to conclude that it should never move immediately to a new release. MCI, for example, has moved to release 5.03, rather than 6.0, in the hope that it will avoid some of the significant defects and documentation issues that seem to always exist when SBC implements a release. This precludes MCI from taking advantage of the latest functionality, however, and does not avoid all of the problems caused by documentation changes and defects. This is so because SBC often continues to release documentation changes and to announce new defects (generally after they are uncovered by CLECs rather than SBC) even many months after SBC issues a release. Lichtenberg Decl. ¶¶ 75-77.

Defects were a concern of the Commission and the Department of Justice in the *BellSouth Five State Order* (¶ 200), where the Commission noted that the applicant had adopted

corrective practices and found other encouraging developments. No such corrective practices have been adopted here.

SBC's change management process has broken down in another fundamental way as well. It no longer serves as an effective vehicle for CLECs to obtain implementation of changes they need. Requests often sit unaddressed by SBC for months or even years, which the Commission noted in the *BellSouth Five State Order* is "not a trend we wish to see continue" (¶196). And even when SBC does address a request, it often does not agree to implement it or says it will implement it in the distant future. Lichtenberg Decl. ¶¶ 79-88.

The line splitting problems MCI has discussed are a recent example. MCI first attempted to address these issues with its account team, but was told to bring them to the User's Forum. In April, therefore, MCI opened issues concerning line splitting in both the User's Forum and Change Management. SBC has not provided any useful information on the issues in either forum, however, instead eventually suggesting that MCI meet with SBC separately. When MCI did have a separate meeting, however, SBC did not agree to any changes in an attempt to resolve the issues. Lichtenberg Decl. ¶¶ 85-86. It appears to MCI that there is now no forum where CLECs can have such significant problems effectively addressed. This is in stark contrast to the Commission's requirement in previous section 271 orders that it is "essential" that the BOC "work collaboratively" with CLECs on change management issues and then "implement changes in a timely manner." *BellSouth Five State Order* ¶ 179.

⁷ SBC is headed in the wrong direction, for the Commission has explained that "section 271 requirements are constantly evolving, so that what is sufficient for checklist compliance today may not be sufficient over time." *BellSouth Five State Order* ¶ 179.

CONCLUSION

For the foregoing reasons, SBC's section 271 application should be denied.

Respectfully Submitted,

Marc A. Goldman
JENNER & BLOCK, LLC
601 Thirteenth Street, N.W.
Washington, D.C. 20005

(202) 639-6087

/s/ Keith Seat
Keith L. Seat
MCI
1133 Nineteenth Street, N.W.
Washington, D.C. 20036

(202) 887-2993

July 2, 2003

Certificate of Service

I, Keith L. Seat, do hereby certify that on this 2d day of July, 2003, I have electronically served a true and correct copy of MCI's Comments in WC Docket No. 03-138 on the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Janice Myles
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
jmyles@fcc.gov

Susan Pié
Competition Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
spie@fcc.gov

Gina Spade
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
gspade@fcc.gov

Layla Seirafi-Najar
U. S. Department of Justice
Antitrust Division
Telecommunications and Media
Enforcement
1401 H Street, NW
Suite 8000
Washington, DC 20530
layla.seirafi-najar@usdoj.gov

Rodney Gregg
Michigan Public Service Commission
P.O. Box 30221
Lansing, MI 48909
rpgregg@michigan.gov

Kevin Walker
Kellogg, Huber, Hansen & Evans
1615 M Street, NW
Suite 400
Washington, DC 20036-3209
kwalker@khhte.com

Qualex International
Portals II
445 Twelfth Street, SW
Room CY-B402
Washington, DC 20554
qualexint@aol.com

/s/ Keith Seat